

**REMARKS**

In the December 23, 2003 Office Action, the Examiner noted that claims 1-11 were pending in the application and rejected claims 1-11 under 35 U.S.C. § 102(e). In rejecting the claims, U.S. Patent Application Publication No. 2001/0047308 to Kaminisky et al. was cited. Claims 1, 4 and 6-11 now remain in the case. The Examiner's rejection is traversed.

**The Application**

The subject application is directed to a discount sale management apparatus and method for managing a selling price. That is, a sales quantity is counted and a discount price is set as the selling price when the sales quantity is less than a predetermined quantity (the quantity of items to be sold at the discount price as set by the seller). However, when the sales quantity is greater than or equal to the predetermined quantity, the original price is set as the selling price. Furthermore, a schedule of change of a discount price is displayed to a purchaser and the purchaser may either immediately make a purchase at a current selling price or make a reservation to make a purchase for a desired purchase price at a reserved future date when the selling price reaches the desired purchase price.

**The Prior Art****U.S. Patent Application Publication No. 2001/0047308 to Kaminisky et al.**

Kaminisky et al. is directed to a Web-based selling system including a flexible current price, an open order mechanism, a demand price scheme and a buyer auction scheme. The sellers set minimum prices and permit increments of changes in price and the buyers can choose to purchase a product at a current price or set an amount they are willing to pay after a specified period of time. That is, the purchaser can place an open order by seeking a purchase price lower than the current price and await the result of shifts in price trends. The open order is valid for a length of time for which the product offer is open (see paragraph [0036]). In the demand price approach, the purchaser requests and commits to a set price below the current price and the demand price is good for a 24-hour period, and is either accepted or declined by the seller (see paragraph [0037]). In the buyer auction scheme, the seller sets a start price for each product and chooses a bid increment, the purchaser submits a bid, and the highest bidder wins (see paragraph [0039]). Also, the seller can set rules for the current price including choosing a start price for each product at a discounted price from the regular list price, and then set a time increment over which price fluctuations are reported, whereby the current price may move up or down over a given period of time as set by the seller based upon a demand for the product (see paragraphs [0049] and [0050]).

## **Rejections under 35 U.S.C. § 102**

On page 2 of the Office Action, claims 1-11 were rejected under 35 U.S.C. § 102(e) as being anticipated by Kaminisky et al. However, Kaminisky et al. was filed March 23, 2001, two days after the subject application and therefore, Kaminisky et al. is not prior art under § 102(e). Only the subject matter in Kaminisky et al. that is supported by provisional application Serial No. 60/193,739 (to which priority was claimed by Kaminisky et al.) could be prior art. Since a copy of the provisional application was not provided with the rejection, it is currently unknown what in Kaminisky et al. might be prior art.

Even if everything in Kaminisky et al. is supported by the provisional application, the present claimed invention distinguishes, because in the selling system taught by Kaminisky et al. the purchaser simply requests a desired price. Nothing was cited or has been found suggesting “providing a discount price transition table which indicates a schedule of change of the discount price for a purchaser ... [and] accepting from the purchaser, a purchase reservation specifying a desired purchase price...” (e.g., claim 1, lines 9-12). The only features identified in the Office Action as corresponding to the features recited above in claim 1 were the demand and bid options in paragraphs [0037] and [0050] and FIG. 4. However, nothing in paragraphs [0037] and [0050] and FIG. 4 suggests providing a discount price transition table which indicates a schedule of change of the discount price for a purchaser. Similar limitations to those discussed with respect to claim 1 are recited in claims 8-11 and claims 4, 6 and 7 depend from 1. Thus, it is submitted that claims 1, 4 and 6-11 patentably distinguish over Kaminisky et al.

## **Summary**

It is submitted that the cited reference does not teach or suggest all of the features of the present claimed invention. Thus, it is submitted that claims 1, 4 and 6-11 are in a condition suitable for allowance. Reconsideration of the claims and an Early Notice of Allowance are earnestly solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

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If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

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By: Richard A. Gollhofer  
Richard A. Gollhofer.  
Registration No. 31,106

1201 New York Avenue, NW, Suite 700  
Washington, D.C. 20005  
Telephone: (202) 434-1500  
Facsimile: (202) 434-1501